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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ABDULLAH MUJAHID,

9 Plaintiff,

10 v.

11 KELLY J. CUNNINGHAM, MARK
12 DAVIS, DONALD GAUNTZ, RANDY
13 PECHEOS, KRISTINA SPARKS,
14 CARISSA BONNEMA, JEREMY P.
DORFNER, LAN BITOW, and ALEC
BRIAN,

15 Defendants.

Case No. C10-5916BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

16 This matter comes before the Court on the Report and Recommendation (“R&R”) of
17 the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 32), and Plaintiff’s
18 (“Mujahid”) objections to the R&R (Dkt. 33).

19 **I. PROCEDURAL HISTORY**

20 On March 23, 2011, Magistrate Judge Strombom issued an R&R in this matter. Dkt.
21 32. On April 4, 2011, Mujahid filed his objections to the R&R. Dkt. 33. On April 6, 2011,
22 Defendants responded in opposition to Mujahid’s objections. Dkt. 34. Mujahid did not reply.

23 **II. FACTUAL BACKGROUND**

24 The magistrate judge set out the facts in Mujahid’s complaint as follows:

25 Mr. Mujahid alleges that on February 18, 2010, SCC mailroom staff
26 returned a package addressed to him from an Islamic Mosque in Chino,
27 California because the package had “no prior approval” pursuant to SCC
Policy 208, and that this was done even though packages with obvious
religious addresses received in prior years had been funneled through the

1 Chaplain's office for authorization. He alleges further that mailroom staff
2 placed various unidentified pieces of mail, catalogues, books and magazines
3 addressed to him in the trash and returned and rejected other unidentified items
4 of mail to retaliate against him because he had legally changed his name and
5 was using both names in his mail. Mr. Mujahid claims that he was placed on
6 complete mailroom restriction in May 2010, at which time all incoming mail
7 was directed to Alder West (his living unit) and his outgoing mail was sealed
8 by mailroom staff before it was taken to the mailroom. Mr. Mujahid states that
9 several Islamic religious publications were mailed to him in March and May
10 2010, but he never received the publications and was never notified by SCC
11 mail staff that his publications were rejected. Mr. Mujahid also alleges that
12 SCC's "Approved Clinical Director's List and SCC Policy 208 place higher
13 restrictions on his religion by requiring that "periodicals" must be included in
14 the Director's List.

8 In addition, Mr. Mujahid claims that mailroom staff failed to pick up
9 his "time barred" legal mail, that mailroom staff unsealed an envelope
10 addressed to his attorney and marked as legal mail, and refused to send out
11 legal mail addressed to the Attorney General's Office.

10 Mr. Mujahid claims that Defendants have relied on SCC Policy 202
11 (Resident Postage, Packages, Mail & Internal Distribution) and Policy 208
12 (Sexually Explicit, Violent and Related Material) 1 even though such policies
13 are unconstitutional and that Defendants' conduct constitutes violations of his
14 due process rights, First Amendment rights of association and freedom of
15 association, and Fourteenth Amendment right of equal protection. He also
16 claims that Defendants have violated his right to equal protection because they
17 are not providing him with individualized treatment as required by RCW
18 71.09. Mr. Mujahid seeks compensatory and punitive damages.

15 Dkt. 32 at 2-3 (citations omitted)

16 Based on these allegations, Mujahid moved the Court to impose a Temporary
17 Restraining Order ("TRO") and/or preliminary injunction. *See, e.g.*, Dkt. 22. In reviewing
18 this matter, Magistrate Judge Strombom recommends that this Court deny the motion for
19 TRO and preliminary injunction because Mujahid cannot meet his burden for obtaining such
20 relief. Dkt. 32 at 4-15.

21 III. DISCUSSION

22 To obtain preliminary injunctive relief, the moving party must establish each of the
23 following: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm to
24 the moving party in the absence of preliminary relief; (3) a balance of equities tips in the
25 favor of the moving party; and (4) that an injunction is in the public interest. *Winter v.*
26 *Natural Res. Def. Council, Inc.*, ___ U.S. ___, 129 S. Ct. 365, 374 (2008).


1 Although, Mujahid addresses each of these factors in his objections to the R&R, his
2 assertions and claims are either without competent factual support or adequate legal support
3 or both. In contrast, the magistrate judge has correctly analyzed the issues, and this Court
4 agrees that Mujahid cannot meet his burden for obtaining injunctive relief based on the facts
5 in the current record and the law that applies to his allegations.

6 **IV. ORDER**

7 The Court having considered the R&R, Plaintiff's objections, and the remaining
8 record, does hereby find and order as follows:

- 9 (1) The R&R is **ADOPTED**; and
10 (2) Mujahid's motion for TRO and preliminary injunction is **DENIED**.

11 DATED this 12th day of May, 2011.

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14 BENJAMIN H. SETTLE
15 United States District Judge
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